

107TH CONGRESS
2D SESSION

S. 2021

To amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2002

Mr. ENZI introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. LIMITATION ON USE OF FORWARD CONTRACTS.**

4 (a) IN GENERAL.—Section 202 of the Packers and
5 Stockyards Act, 1921 (7 U.S.C. 192), is amended—

6 (1) by striking “to:” and inserting “to—”;

7 (2) by redesignating subsections (a), (b), (c),

8 (d), (e), (f), and (g) as paragraphs (1), (2), (3), (4),

9 (5), (7), and (8), respectively, and indenting appro-

10 priately;

1 (3) in paragraph (7) (as redesignated by para-
 2 graph (2)), by designating paragraphs (1), (2), and
 3 (3) as subparagraphs (A), (B), and (C), respectively;

4 (4) in paragraph (8) (as redesignated by para-
 5 graph (2)), by striking “subdivision (a), (b), (c), (d),
 6 or (e)” and inserting “paragraph (1), (2), (3), (4),
 7 (5), or (6)”;

8 (5) in each of paragraphs (1), (2), (3), (4), (5),
 9 (7), and (8) (as redesignated by paragraph (2)), by
 10 striking the first capital letter of the first word in
 11 the paragraph and inserting the same letter in the
 12 lower case;

13 (6) in each of paragraphs (1) through (5) (as
 14 redesignated by paragraph (2)), by striking “or” at
 15 the end; and

16 (7) by inserting after paragraph (5) (as redesign-
 17 ated by paragraph (2)) the following:

18 “(6) use, in effectuating any sale of livestock,
 19 a forward contract that—

20 “(A) does not contain a firm base price
 21 that may be equated to a fixed dollar amount
 22 on the day on which the forward contract is en-
 23 tered into;

24 “(B) is not offered for bid in an open, pub-
 25 lic manner under which—

1 “(i) buyers and sellers have the oppor-
 2 tunity to participate in the bid;

3 “(ii) more than 1 blind bid is solici-
 4 ited; and

5 “(iii) buyers and sellers may witness
 6 bids that are made and accepted;

7 “(C) is based on a formula price; or

8 “(D) provides for the sale of livestock in a
 9 quantity in excess of—

10 “(i) in the case of cattle, 40 cattle;

11 “(ii) in the case of swine, 30 swine;

12 and

13 “(iii) in the case of other types of live-
 14 stock, a comparable quantity of the type of
 15 livestock determined by the Secretary.”.

16 (b) DEFINITIONS.—Section 2(a) of the Packers and
 17 Stockyards Act, 1921 (7 U.S.C. 182(a)) is amended by
 18 adding at the end the following:

19 “(12) FORMULA PRICE.—

20 “(A) IN GENERAL.—The term ‘formula
 21 price’ means any price term that establishes a
 22 base from which a purchase price is calculated
 23 on the basis of a price that will not be deter-
 24 mined or reported until a date after the day the
 25 forward price is established.

1 “(B) EXCLUSION.—The term ‘formula
2 price’ does not include—

3 “(i) any price term that establishes a
4 base from which a purchase price is cal-
5 culated on the basis of a futures market
6 price; or

7 “(ii) any adjustment to the base for
8 quality, grade, or other factors relating to
9 the value of livestock or livestock products
10 that are readily verifiable market factors
11 and are outside the control of the packer.

12 “(13) FORWARD CONTRACT.—The term ‘for-
13 ward contract’ means an oral or written contract for
14 the purchase of livestock that provides for the deliv-
15 ery of the livestock to a packer at a date that is
16 more than 7 days after the date on which the con-
17 tract is entered into, without regard to whether the
18 contract is for—

19 “(A) a specified lot of livestock; or

20 “(B) a specified number of livestock over a
21 certain period of time.”.

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